

AMENDED IN SENATE AUGUST 24, 2006

AMENDED IN SENATE JUNE 28, 2006

AMENDED IN ASSEMBLY MAY 23, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2586

**Introduced by Assembly Member Parra
(Principal coauthor: Assembly Member Spitzer)**

February 24, 2006

An act to amend Section 1170.9 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2586, as amended, Parra. Sentencing: veterans: treatment programs.

Under existing law, if a convicted defendant was a member of the military forces of the United States who served in combat in Vietnam and who suffers from substance abuse or psychological problems resulting from that service, the court may, under specified circumstances, order the defendant committed to the custody of federal correctional officials for incarceration for a term equivalent to that which the defendant would have served in state prison.

This bill would instead provide that if a person is convicted of a criminal offense and alleges that he or she committed the offense as a result of post-traumatic stress disorder, substance abuse, or psychological problems stemming from service in combat in the United States military, the court shall hold a hearing prior to

sentencing to make a determination about that allegation. If the court finds that the defendant's crime was committed as a result of one of those factors related to serving in combat, and the court places the person on probation, the bill would authorize the court to place the person into a treatment program, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Post-traumatic stress disorder (PTSD) is an inclusive title
4 for a complex of mental disorders and conditions caused by
5 exposure to severe, violent, and threatening situations like those
6 experienced by military personnel in combat.

7 (b) Once brushed aside as shell shock or combat fatigue,
8 PTSD was finally recognized as an illness by the American
9 Psychiatric Association in 1980 based upon the psychiatric
10 experience of veterans of the Vietnam war.

11 (c) During and after the Vietnam war, a significant number of
12 our returning combat veterans were incarcerated because of
13 behavior caused or exacerbated by their misunderstood and
14 untreated PTSD.

15 (d) In 1982, 10 years after the Vietnam war, the California
16 Legislature passed Section 1170.9 of the Penal Code. That
17 section is not sufficient to cover returning Iraq and Afghanistan
18 veterans.

19 (e) Therefore, it is the intent of the Legislature to extend the
20 opportunity for alternative sentencing to all combat veterans,
21 regardless of where or when those veterans served our country,
22 when those veterans are found by the court to be suffering from
23 PTSD.

24 (f) It is not the intent of the Legislature to expand probation
25 eligibility for veterans who commit crimes pursuant to these
26 provisions.

27 (g) It is the intent of the Legislature to ensure that judges are
28 aware that a criminal defendant is a combat veteran with these
29 conditions at the time of sentencing and to be aware of any

1 treatment programs that exist and are appropriate for the person
2 at the time of sentencing if a sentence of probation is appropriate.

3 SEC. 2. Section 1170.9 of the Penal Code is amended to read:

4 1170.9. (a) In the case of any person convicted of a criminal
5 offense who would otherwise be sentenced to county jail or state
6 prison and who alleges that he or she committed the offense as a
7 result of post-traumatic stress disorder, substance abuse, or
8 psychological problems stemming from service in a combat
9 theater in the United States military, the court shall, prior to
10 sentencing, hold a hearing to determine whether the defendant
11 was a member of the military forces of the United States who
12 served in combat and shall assess whether the defendant suffers
13 from post-traumatic stress disorder, substance abuse, or
14 psychological problems as a result of that service.

15 (b) If the court concludes that a defendant convicted of a
16 criminal offense is a person described in subdivision (a), and if
17 the defendant is otherwise eligible for probation and the court
18 places the defendant on probation, the court may order the
19 defendant into a local, state, federal, or private nonprofit
20 treatment program for a period not to exceed that which the
21 defendant would have served in state prison or county jail,
22 provided the defendant agrees to participate in the program and
23 the court determines that an appropriate treatment program
24 exists.

25 (c) *If a referral is made to the county mental health authority,*
26 *the county shall be obligated to provide mental health treatment*
27 *services only to the extent that resources are available for that*
28 *purpose, as described in paragraph (5) of subdivision (b) of*
29 *Section 5600.3 of the Welfare and Institutions Code. If mental*
30 *health treatment services are ordered by the court, the county*
31 *mental health agency shall coordinate appropriate referral of the*
32 *defendant to the county veterans service officer, as described in*
33 *paragraph (5) of subdivision (b) of Section 5600.3 of the Welfare*
34 *and Institutions Code. The county mental health agency shall not*
35 *be responsible for providing services outside its traditional scope*
36 *of services. An order shall be made referring a defendant to a*
37 *county mental health agency only if that agency has agreed to*
38 *accept responsibility for the treatment of the defendant.*

39 (e)

1 (d) When determining the “needs of the defendant,” for
2 purposes of Section 1202.7, the court shall consider the fact that
3 the defendant is a person described in subdivision (a) in assessing
4 whether the defendant should be placed on probation *and*
5 *whether the defendant would be best served while on probation*
6 *by being ordered into a private nonprofit treatment service*
7 *program with a demonstrated history of specializing in the*
8 *treatment of military service related issues, such as*
9 *post-traumatic stress disorder, substance abuse, or psychological*
10 *problems.*

11 ~~(d)~~

12 (e) A defendant granted probation under this section and
13 committed to a residential treatment program shall earn sentence
14 credits for the actual time the defendant served in residential
15 treatment.

16 ~~(e)~~

17 (f) The court, in making an order under this section to commit
18 a defendant to an established treatment program, shall give
19 preference to a treatment program that has a history of
20 successfully treating combat veterans who suffer from
21 post-traumatic stress disorder, substance abuse, or psychological
22 problems as a result of that service.